

**Denial of Requests for Extension of
Small Refinery Temporary Exemptions
Under the Renewable Fuel Standards Program
For
U.S. FOIA Ex. (b)(4)**

**Contains Information Claimed by
U.S. FOIA Ex. (b)(4) to be
Confidential Business Information**

Office of Transportation and Air Quality

EPA received a petition from [redacted] U.S. FOIA Ex. (b)(4)
[redacted] U.S. FOIA Ex. (b)(4) extension of the RFS small refinery exemption for
the [redacted] U.S. FOIA Ex. (b)(4) For the reasons described herein, EPA is
denying [redacted] U.S. FOIA Ex. (b)(4) request for an extension of [redacted] U.S. FOIA Ex. (b)(4) RFS small refinery exemption for
2014 [redacted] U.S. FOIA Ex. (b)(4)

I. Required Information and Criteria for an Extension of the Small Refinery Exemption

A. Background - Overall RFS Program

The federal renewable fuel standard ("RFS") program is set forth in section 211(o) of the Clean Air Act ("CAA"), 42 U.S.C. 7545(o), as amended by the Energy Policy Act of 2005 (EPAct), and the Energy Independence and Security Act of 2007 (EISA). The CAA specifies that EPA is to promulgate regulations to ensure that transportation fuel sold or introduced into commerce in the United States, on an average annual basis, contains specified volumes of renewable fuel and three subcategories of renewable fuel - advanced biofuel, cellulosic biofuel, and biomass based diesel. CAA section 211(o)(2)(A)(i). Each year EPA is to use the relevant annual volumes along with an estimate (provided by the Department of Energy) of the amount of gasoline and diesel projected to be sold or introduced into commerce that year, to compute the percentages of total transportation fuel that should qualify as each type of renewable fuel. CAA section 211(o)(3). The relevant annual volumes may come directly from the statute, may be established by EPA for years for which the statute does not specify volumes, or may result from EPA using its statutory authority to adjust statutory volumes. Each of the various refiners and importers who are subject to the RFS standard ("obligated parties") then apply those percentages to their annual production or import of gasoline and diesel to determine the number of gallons of each type of renewable fuel for which they are responsible. CAA section 211(o)(3)(B)(ii).

EPA regulations implementing CAA section 211(o) do not require obligated parties to blend renewable fuel into gasoline themselves, but allow them to demonstrate compliance with the RFS by acquiring or generating Renewable Identification Numbers (RINs), which represent renewable fuel that has been produced or imported for use in the United States. 40 CFR 80.1427. An obligated party establishes to the EPA, after each calendar year, that it has accumulated sufficient RINs corresponding to each renewable fuel type to meet its renewable-fuel obligations. Obligated parties need not acquire RINs at the same time that they produce or import fuel but may, if they choose, simply purchase the required number of RINs by the end of the compliance period, once their annual production is known. An obligated party can also carry a surplus or deficit of RINs for one year into the following year. *See generally* 72 FR at 23929-23938.

Both the original RFS statutory provisions enacted pursuant to EPAct, and the current text of the statute as amended by EISA, specify that small refineries were exempt from the renewable fuel standards until calendar year 2011. CAA section 211(o)(9)(A)(i). In EPA's original implementing regulations ("RFS1"), EPA defined "small refineries" as

V. Conclusion

Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption based on a demonstration by the small refinery of a "disproportionate economic hardship" from compliance with the RFS requirements. Based on our analysis of all of the available information about [REDACTED] and our consultation with DOE, EPA has concluded that [REDACTED] will not experience "disproportionate economic hardship" in complying with its 2014 [REDACTED] RFS requirements. Therefore, EPA is hereby denying [REDACTED] requests for a temporary extension of its small refinery exemption for 2014 [REDACTED].

This decision is a final agency action for purposes of section 307(b)(1) of the Act. Pursuant to CAA section 307(b)(1), judicial review of this final agency action may be sought only in the United States Court of Appeals for the appropriate circuit. Judicial review of this final agency action may not be obtained in subsequent proceedings, pursuant to CAA section 307(b)(2). This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.


**Denial of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program
for
U.S. FOIA Ex. (b)(4)**

**Contains Information Claimed by
U.S. FOIA Ex. (b)(4)
To be Confidential Business Information**

Office of Transportation and Air Quality

EPA received a petition from [redacted] U.S. FOIA Ex. (b)(4) extension [redacted] U.S. FOIA Ex. (b)(4) through May 31, 2014) of the RFS small refinery exemption for its [redacted] U.S. FOIA Ex. (b)(4) refinery [redacted] U.S. FOIA Ex. (b)(4) [redacted] U.S. FOIA Ex. (b)(4) For the reasons described herein, EPA is denying [redacted] U.S. FOIA Ex. (b)(4) request for an extension of its RFS small refinery exemption.

Redacted Material not Subject to Review



Redacted Material not Subject to Review

V. Conclusion

Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption based on a demonstration by the small refiner of a "disproportionate economic hardship" from compliance with the RFS requirements. Based on our analysis of all of the available information about [U.S. FOIA Ex. (b)(4)], and our consultation with DOE, EPA has concluded that [U.S. FOIA Ex. (b)(4)] will not experience "disproportionate economic hardship" in complying with its RFS requirements. Therefore, EPA is denying [U.S. FOIA Ex. (b)(4)] request for an extension of its small refinery exemption beyond [U.S. FOIA Ex. (b)(4)] for its [U.S. FOIA Ex. (b)(4)] Refinery.

This decision is a final agency action of nationwide scope and effect for purposes of section 307(b)(1) of the Act. Pursuant to CAA section 307(b)(1), judicial review of this final agency action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Judicial review of this final agency action may not be obtained in subsequent proceedings, pursuant to CAA section 307(b)(2). This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.

Redacted Material not Subject to Review

**Grant of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program
for
Calumet San Antonio Refining, LLC's
Calumet San Antonio Refinery**

**Contains Information Claimed by
Calumet San Antonio Refining, LLC to be
Confidential Business Information**

Office of Transportation and Air Quality

EPA received a petition from Calumet San Antonio Refining, LLC (“CSARC” or “Calumet”) dated September 16, 2015, for a one year extension of the RFS small refinery exemption for the Calumet San Antonio Refinery (“CSAR”). For the reasons described herein, EPA is granting CSARC’s request for a one year extension of CSAR’s small refinery exemption for 2014.

Redacted Material not Subject to Review



Redacted Material not Subject to Review

V. Conclusion

Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption based on a demonstration by the small refinery of a "disproportionate economic hardship" from compliance with the RFS requirements. Based on our analysis of all of the available information about CSAR, and our consultation with DOE, EPA has concluded that CSAR will experience "disproportionate economic hardship" in complying with its RFS requirements. Therefore, EPA is granting CSAR's request for a temporary extension of CSAR's small refinery RFS hardship exemption for 2014.

This decision is a final agency action for purposes of section 307(b)(1) of the Act. Pursuant to CAA section 307(b)(1), judicial review of this final agency action may be sought in the United States Court of Appeals for the appropriate circuit. Judicial review of this final agency action may not be obtained in subsequent proceedings, pursuant to CAA section 307(b)(2). This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.

³⁷ Petition at 9.

**Grant of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program
for
Calumet Shreveport Fuels LLC's
Calumet Shreveport Refinery**

**Contains Information Claimed by
Calumet Shreveport Fuels LLC to be
Confidential Business Information**

Office of Transportation and Air Quality

EPA received a petition from Calumet Shreveport Fuels, LLC (“CSFC”) dated October 9, 2015, for a one year extension of the RFS small refinery exemption for the Calumet Shreveport Refinery (“CSF”). For the reasons described herein, EPA is granting CSFC’s request for a one year extension of CSF’s small refinery exemption for 2014.

Redacted Material not Subject to Review



Redacted Material not Subject to Review

V. Conclusion

Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption based on a demonstration by the small refinery of a "disproportionate economic hardship" from compliance with the RFS requirements. Based on our analysis of all of the available information about CSF, and our consultation with DOE, EPA has concluded that CSF will experience "disproportionate economic hardship" in complying with the RFS requirements. Therefore, EPA is granting CSFC's request for a temporary extension of CSF's small refinery hardship exemption for 2014.

This decision is a final agency action for purposes of section 307(b)(1) of the Act. Pursuant to CAA section 307(b)(1), judicial review of this final agency action may be sought only in the United States Court of Appeals for the appropriate circuit. Judicial review of this final agency action may not be obtained in subsequent proceedings, pursuant to CAA section 307(b)(2). This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.

⁴² Petition at 8-9.

**Approval of Request for Extension of Small
Refinery Temporary Exemption Under
the Renewable Fuel Standards Program for
U.S. FOIA Ex. (b)(4)**

**Contains Information Claimed by U.S. FOIA Ex. (b)(4)
to be Confidential
Business Information**

Office of Transportation and Air Quality

EPA received a petition from [redacted] U.S. FOIA Ex. (b)(4) [redacted] for an extension of the RFS small refinery exemption for their [redacted] U.S. FOIA Ex. (b)(4) refinery [redacted] U.S. FOIA Ex. (b)(4) through December 31, 2014. For the reasons described herein, EPA is granting an extension of [redacted] U.S. FOIA Ex. (b)(4) exemption with respect to the [redacted] U.S. FOIA Ex. (b)(4) through December 31, 2014.

I. Required Information and Criteria for Hardship Relief

A. Background - Overall RFS Program

The federal renewable fuel standard (“RFS”) program is set forth in section 211(o) of the Clean Air Act (“CAA”), 42 U.S.C. 7545(o), as amended by the Energy Policy Act of 2005 (EPA Act), and the Energy Independence and Security Act of 2007 (EISA). The CAA specifies that EPA is to promulgate regulations to ensure that transportation fuel sold or introduced into commerce in the United States, on an average annual basis, contains specified volumes of renewable fuel and three subcategories of renewable fuel - advanced biofuel, cellulosic biofuel, and biomass based diesel. CAA Section 211(o)(2)(A)(i). Each year EPA uses the relevant annual volumes from the statute (or a volume identified by EPA for years for which the statute does not specify volumes or, for cellulosic biofuel, for years where projected production is less than the volume set forth in the Act), along with an estimate (provided by the Department of Energy) of the amount of gasoline and diesel fuel projected to be sold or introduced into commerce that year, to compute the percentages of total transportation fuel that should be each type of renewable fuel. CAA sections 211(o)(2)(B)(ii), 211(o)(3), 211(o)(7)(D). EPA publishes the annual percentage standards for the upcoming year in the Federal Register by November 30 of the previous year. CAA section 211(o)(3)(B)(i). Each of the various refiners, blenders, and importers who are subject to the RFS standard (“obligated parties”) then apply those percentages to their annual production of gasoline and diesel fuel to determine the number of gallons of each type of renewable fuel for which they are responsible. CAA section 211(o)(3)(B)(ii).

EPA regulations implementing CAA Section 211(o) do not require obligated parties to blend renewable fuel into gasoline themselves, but allow them instead to acquire Renewable Identification Numbers (RINs), which represent renewable fuel that has been produced or imported for use in the United States. 40 CFR 80.1427. As EPA explained in issuing its original implementing regulations, “if a refiner assures that a certain volume of renewable fuel has been produced, in effect they have ensured that this volume will be blended into gasoline or otherwise used as a motor vehicle fuel,” because there is no other reasonable use for such renewable fuel. 72 FR 23929 (May 1, 2007). An obligated party establishes to the EPA, after each calendar year, that it has accumulated sufficient RINs corresponding to each renewable fuel type to meet its renewable-fuel obligations. 40 CFR 80.1451(a)(1). Obligated parties need not acquire RINs at the same time that they produce or import fuel but may, if they choose, simply purchase the required number of RINs at the end of the year, once their annual production is known. An obligated party can also carry a surplus or deficit of RINs for one year into the following year.

U.S. FOIA Ex. (b)(4)

B. EPA's Evaluation of U.S. FOIA Ex. (b)(4) Hardship Petition

U.S. FOIA Ex. (b)(4)

V. Conclusion

The provisions of 40 CFR 80.1441(e)(2) allow EPA to grant an extension of an RFS small refinery's exemption based on a demonstration by the refiner of disproportionate economic hardship. Based on our analysis of available information about U.S. FOIA Ex. (b)(4), including input from DOE, EPA has concluded that U.S. FOIA Ex. (b)(4) would experience disproportionate economic hardship in meeting the RFS program requirements in 40 CFR 80.1405 when they resume operations at their U.S. FOIA Ex. (b)(4) refinery in 2012. Having considered all available information, EPA has determined that it is appropriate to grant U.S. FOIA Ex. (b)(4) an extension of their RFS small refinery exemption through December 31, 2014 for their U.S. FOIA Ex. (b)(4) refinery. Therefore, EPA extends the small refinery exemption for U.S. FOIA Ex. (b)(4) through December 31, 2014.

**Denial of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program For**

U.S. FOIA Ex. (b)(4)

Contains Information Claimed by

U.S. FOIA Ex. (b)(4)

To be Confidential Business Information

Office of Transportation and Air Quality

EPA received a petition from [U.S. FOIA Ex. (b)(4)] extension of the RFS small refinery exemption for [U.S. FOIA Ex. (b)(4)] refinery for its 2014, [U.S. FOIA Ex. (b)(4)] RFS obligations. For the reasons described herein, EPA is denying [U.S. FOIA Ex. (b)(4)] request for an extension of its RFS small refinery exemption for 2014 [U.S. FOIA Ex. (b)(4)]. EPA will consider [U.S. FOIA Ex. (b)(4)] in a separate decision document.

I. Required Information and Criteria for an Extension of the Small Refinery Exemption

A. Background - Overall RFS Program

The federal renewable fuel standard (“RFS”) program is set forth in section 211(o) of the Clean Air Act (“CAA”), 42 U.S.C. 7545(o), as amended by the Energy Policy Act of 2005 (EPAct), and the Energy Independence and Security Act of 2007 (EISA). The CAA specifies that EPA is to promulgate regulations to ensure that transportation fuel sold or introduced into commerce in the United States, on an average annual basis, contains specified volumes of renewable fuel and three subcategories of renewable fuel - advanced biofuel, cellulosic biofuel, and biomass based diesel. CAA section 211(o)(2)(A)(i). Each year EPA is to use the relevant annual volumes along with an estimate (provided by the Department of Energy) of the amount of gasoline and diesel projected to be sold or introduced into commerce that year, to compute the percentages of total transportation fuel that should qualify as each type of renewable fuel. CAA section 211(o)(3). The relevant annual volumes may come directly from the statute, may be established by EPA for years for which the statute does not specify volumes, or may result from EPA using its statutory authority to adjust statutory volumes. Each of the various refiners and importers who are subject to the RFS standard (“obligated parties”) then apply those percentages to their annual production or import of gasoline and diesel to determine the number of gallons of each type of renewable fuel for which they are responsible. CAA section 211(o)(3)(B)(ii).

EPA regulations implementing CAA section 211(o) do not require obligated parties to blend renewable fuel into gasoline themselves, but allow them to demonstrate compliance with the RFS by acquiring or generating Renewable Identification Numbers (RINs), which represent renewable fuel that has been produced or imported for use in the United States. 40 CFR 80.1427. An obligated party establishes to the EPA, after each calendar year, that it has accumulated sufficient RINs corresponding to each renewable fuel type to meet its renewable-fuel obligations. Obligated parties need not acquire RINs at the same time that they produce or import fuel but may, if they choose, simply purchase the required number of RINs by the end of the compliance period, once their annual production is known. An obligated party can also carry a surplus or deficit of RINs for one year into the following year. *See generally* 72 FR at 23929-23938.

Both the original RFS statutory provisions enacted pursuant to EPAct, and the current text of the statute as amended by EISA, specify that small refineries were exempt from the renewable fuel standards until calendar year 2011. CAA section 211(o)(9)(A)(i). In EPA’s original implementing regulations (“RFS1”), EPA defined “small refineries” as those with an average crude oil input in 2004 that was no greater than 75,000 barrels/day (bpd). In EPA’s regulations implementing the EISA amendments (“RFS2”), EPA amended the definition of small refinery to include those with an average crude oil input no greater than 75,000 bpd crude in 2006. 40 CFR

For all of these reasons, we find that [U.S. FOIA Ex.] has not demonstrated that compliance with its 2014 [U.S. FOIA Ex.] RFS requirements will result in “disproportionate economic hardship.” Based on this evaluation, an extension of the small refinery temporary exemption is not warranted for the years 2014 [U.S. FOIA Ex. (b)(4)]

V. Conclusion

Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery’s exemption based on a demonstration by the small refinery of a “disproportionate economic hardship” from compliance with its RFS requirements. Based on our analysis of all of the available information about [U.S. FOIA Ex.] and our consultation with DOE, EPA has concluded that [U.S. FOIA Ex.] will not experience “disproportionate economic hardship” in complying with its 2014 [U.S. FOIA Ex. (b)(4)] RFS requirements. Therefore, EPA is hereby denying [U.S. FOIA Ex. (b)(4)] request for a temporary extension of its small refinery RFS hardship exemption for 2014 [U.S. FOIA Ex. (b)(4)]

This decision is a final agency action for purposes of CAA section 307(b)(1). Pursuant to CAA section 307(b)(1), judicial review of this final agency action may be sought only in the United States Court of Appeals for the appropriate circuit. Judicial review of this final agency action may not be obtained in subsequent proceedings, pursuant to CAA section 307(b)(2). This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.


**Denial of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program For
Ergon-West Virginia, Inc.'s
Newell, WV Refinery**

**Contains Information Claimed by
Ergon-West Virginia, Inc.
To be Confidential Business Information**

Office of Transportation and Air Quality

EPA received a petition from Ergon-West Virginia, Inc. ("EWV") dated April 13, 2016, for a three-year extension of the RFS small refinery exemption for EWV's Newell, West Virginia refinery for its 2014, 2015, and 2016 RFS obligations. For the reasons described herein, EPA is denying EWV's request for an extension of its RFS small refinery exemption for 2014 and 2015. EPA will consider EWV's request for 2016 in a separate decision document.

Redacted Material not Subject to Review



Redacted Material not Subject to Review

V. Conclusion

Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption based on a demonstration by the small refinery of a "disproportionate economic hardship" from compliance with its RFS requirements. Based on our analysis of all of the available information about EWV, and our consultation with DOE, EPA has concluded that EWV will not experience "disproportionate economic hardship" in complying with its 2014 and 2015 RFS requirements. Therefore, EPA is hereby denying EWV's request for a temporary extension of its small refinery RFS hardship exemption for 2014 and 2015.

This decision is a final agency action for purposes of CAA section 307(b)(1). Pursuant to CAA section 307(b)(1), judicial review of this final agency action may be sought only in the United States Court of Appeals for the appropriate circuit. Judicial review of this final agency action may not be obtained in subsequent proceedings, pursuant to CAA section 307(b)(2). This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.

**Grant of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program
for Goodway Refining, LLC's
Atmore, Alabama Refinery**

**Contains Information Claimed by
Goodway Refining, LLC to be
Confidential Business Information**

Office of Transportation and Air Quality

EPA received a petition from Goodway Refining, LLC (“Goodway”) on April 30, 2014, for a 17 month extension (from January 1, 2013 through May 31, 2014 ¹) of the renewable fuel standard small refinery exemption for its Atmore, Alabama refinery (the “Atmore, AL Refinery”). For the reasons described herein, EPA is granting Goodway’s request for a 17 month extension of the RFS small refinery exemption.

Redacted Material not Subject to Review



Redacted Material not Subject to Review

V. Conclusion

Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption based on a demonstration by the small refiner of a "disproportionate economic hardship" from compliance with the RFS requirements. Based on our analysis of all of the available information about Goodway, and our consultation with DOE, EPA has concluded that Goodway will experience "disproportionate economic hardship" in complying with the RFS requirements at its Atmore, AL Refinery. Therefore, EPA is granting Goodway's request for a 17 month extension of its small refinery exemption to May 31, 2014, for its Atmore, AL Refinery.

This decision is a final agency action of nationwide scope and effect for purposes of section 307(b)(1) of the Act. Pursuant to CAA section 307(b)(1), judicial review of this final agency action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Judicial review of this final agency action may not be obtained in subsequent proceedings, pursuant to CAA section 307(b)(2). This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.

**Grant of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program
for Lazarus Energy Holdings, LLC's
Nixon, Texas Refinery**

**Contains Information Claimed by
Lazarus Energy Holdings, LLC to be
Confidential Business Information**

Office of Transportation and Air Quality

EPA received a petition from Lazarus Energy Holdings, LLC (“Lazarus”) on December 30, 2013 for a 30 month extension (from January 1, 2012¹ through June 30, 2014²) of the renewable fuel standard small refinery exemption for its Nixon, Texas refinery (the “Nixon, TX Refinery”). For the reasons described herein, EPA is granting Lazarus’ request for an extension of its RFS small refinery exemption for the period January 1, 2013 through May 31, 2014.

Redacted Material not Subject to Review



Redacted Material not Subject to Review

V. Conclusion

Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption based on a demonstration by the small refiner of a "disproportionate economic hardship" from compliance with the RFS requirements. Based on our analysis of all of the available information about Lazarus, and our consultation with DOE, EPA has concluded that Lazarus will experience "disproportionate economic hardship" in complying with the RFS requirements at its Nixon, TX Refinery. Therefore, EPA is granting Lazarus' request for an extension of its small refinery exemption from January 1, 2013 to May 31, 2014, for its Nixon, TX Refinery.

This decision is a final agency action of nationwide scope and effect for purposes of section 307(b)(1) of the Act. Pursuant to CAA section 307(b)(1), judicial review of this final agency action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Judicial review of this final agency action may not be obtained in subsequent proceedings, pursuant to CAA section 307(b)(2). This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.

**Grant of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program
For
U.S. FOIA Ex. (b)(4)**

**Contains Information Claimed by
U.S. FOIA Ex. (b)(4)
To be Confidential Business Information**

Office of Transportation and Air Quality

EPA received a petition from [redacted] U.S. FOIA Ex. (b)(4) for a one year extension of the RFS small refinery exemption for its [redacted] U.S. FOIA Ex. (b)(4) refinery [redacted] U.S. FOIA Ex. (b)(4) also submitted a supplement to its petition on [redacted] U.S. FOIA Ex. (b)(4). For the reasons described herein, EPA is granting [redacted] U.S. FOIA Ex. (b)(4) request for a one-year extension of the RFS exemption for the [redacted] U.S. FOIA Ex. (b)(4) Refinery through December 31, 2014.

I. Required Information and Criteria for an Extension of the Small Refinery Exemption

A. Background - Overall RFS Program

The federal renewable fuel standard ("RFS") program is set forth in section 211(o) of the Clean Air Act ("CAA"), 42 U.S.C. 7545(o), as amended by the Energy Policy Act of 2005 (EPAct), and the Energy Independence and Security Act of 2007 (EISA). The CAA specifies that EPA is to promulgate regulations to ensure that transportation fuel sold or introduced into commerce in the United States, on an average annual basis, contains specified volumes of renewable fuel and three subcategories of renewable fuel - advanced biofuel, cellulosic biofuel, and biomass based diesel. CAA section 211(o)(2)(A)(i). Each year EPA is to use the relevant annual volumes along with an estimate (provided by the Department of Energy) of the amount of gasoline and diesel projected to be sold or introduced into commerce that year, to compute the percentages of total transportation fuel that should qualify as each type of renewable fuel. CAA section 211(o)(3). The relevant annual volumes may come directly from the statute, may be established by EPA for years for which the statute does not specify volumes, or may result from EPA using its statutory authority to adjust statutory volumes. Each of the various refiners and importers who are subject to the RFS standard ("obligated parties") then apply those percentages to their annual production or import of gasoline and diesel to determine the number of gallons of each type of renewable fuel for which they are responsible ("renewable volume obligation", or "RVO"). CAA section 211(o)(3)(B)(ii).

EPA regulations implementing CAA section 211(o) do not require obligated parties to blend renewable fuel into gasoline themselves, but allow them to demonstrate compliance with the RFS by acquiring or generating Renewable Identification Numbers (RINs), which represent renewable fuel that has been produced or imported for use in the United States. 40 CFR 80.1427. An obligated party establishes to the EPA, after each calendar year, that it has accumulated sufficient RINs corresponding to each renewable fuel type to meet its renewable-fuel obligations. Obligated parties need not acquire RINs at the same time that they produce or import fuel but may, if they choose, simply purchase the required number of RINs by the end of the compliance period, once their annual production is known. An obligated party can also carry a surplus or deficit of RINs for one year into the following year. *See generally* 72 FR at 23929-23938.

Both the original RFS statutory provisions enacted pursuant to EPAct, and the current text of the statute as amended by EISA, specify that small refineries were exempt from the renewable fuel standards until calendar year 2011. CAA section 211(o)(9)(A)(i). In

U.S. FOIA Ex. (b)(4)

V. Conclusion

Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption based on a demonstration by the small refinery of a "disproportionate economic hardship" from compliance with its RFS requirements. Based on our analysis of all of the available information about the U.S. FOIA Ex. (b)(4) Refinery, and our consultation with DOE, EPA has concluded that U.S. FOIA Ex. (b)(4) will experience "disproportionate economic hardship" in complying with its 2014 RFS requirements at the U.S. FOIA Ex. (b)(4) refinery. Therefore, EPA is hereby granting U.S. FOIA Ex. (b)(4) request for a temporary extension of the U.S. FOIA Ex. (b)(4) Refinery's small refinery RFS hardship exemption through December 31, 2014.

This decision is a final agency action for purposes of section 307(b)(1) of the Act. Pursuant to section 307(b)(1), judicial review of this final agency action may be sought in the United States Court of Appeals for the appropriate circuit. Judicial review of this final agency action may not be obtained in subsequent proceedings, pursuant to CAA

⁴⁹ *Hermes Consol., LLC, dba Wyoming Refining Co. v. EPA*, 787 F.3d 568, 578 (D.C. Cir. 2015).

⁵⁰ U.S. FOIA Ex. (b)(4)

section 307(b)(2). This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.

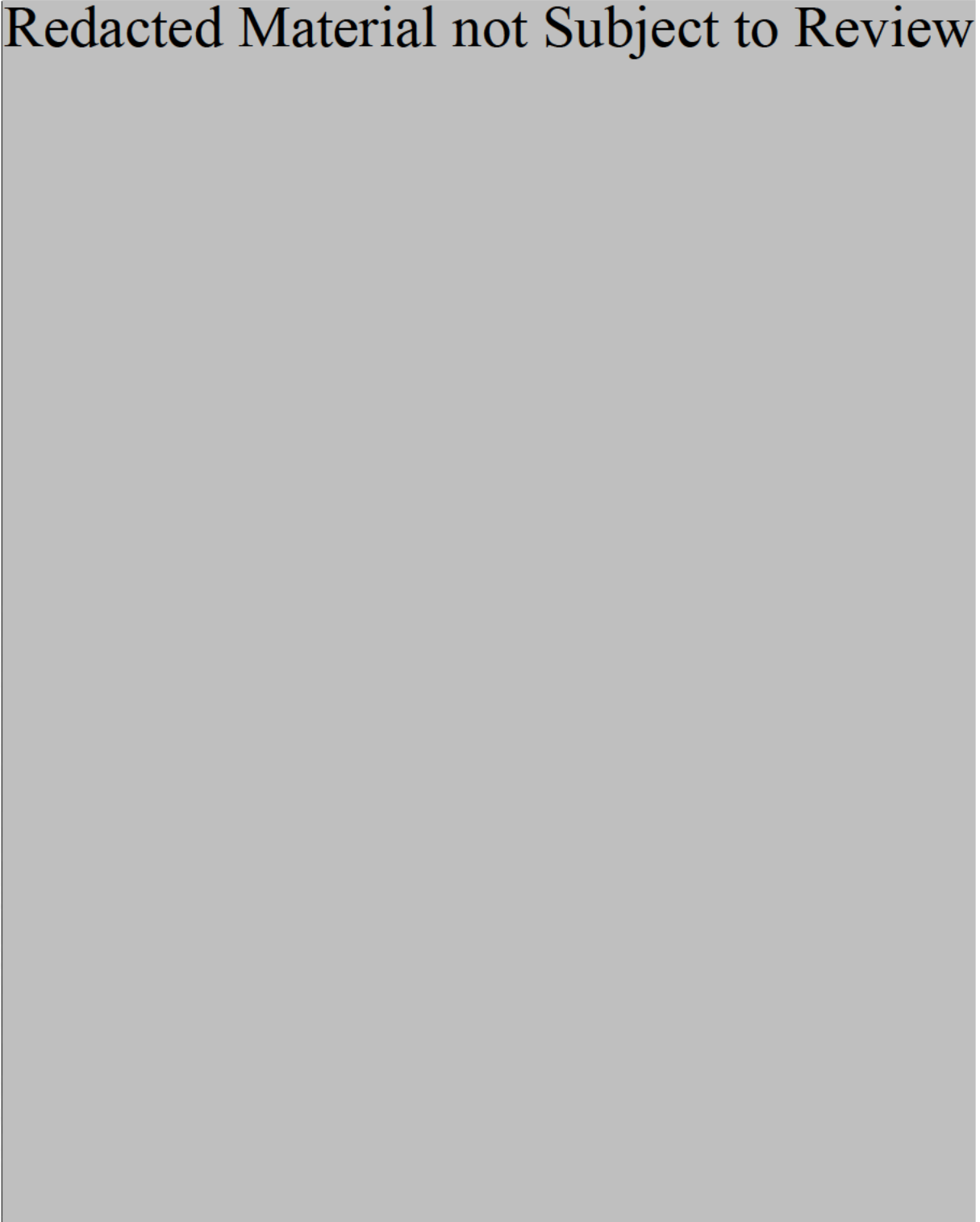
**Denial of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program
For
Sinclair Casper Refining Company's
Sinclair Casper Refinery**

**Contains Information Claimed by
The Sinclair Companies
To be Confidential Business Information**

Office of Transportation and Air Quality

EPA received a petition from Sinclair Casper Refining Company (“SCRC” or “Sinclair”) dated February 4, 2016, for a one-year extension of the RFS small refinery exemption for the Sinclair Casper Refinery (“SCR”) for SCR’s 2014 RFS obligations. For the reasons described herein, EPA is denying SCRC’s request for an extension of SCR’s RFS small refinery exemption for 2014.

Redacted Material not Subject to Review



Redacted Material not Subject to Review

V. Conclusion

Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption based on a demonstration by the small refinery of a "disproportionate economic hardship" from compliance with its RFS requirements. Based on our analysis of all of the available information about SCR, and our consultation with DOE, EPA has concluded that SCR will not experience "disproportionate economic hardship" in complying with its 2014 RFS requirements. Therefore, EPA is hereby denying SCRC's request for a temporary extension of SCR's small refinery RFS hardship exemption for 2014.

This decision is a final agency action for purposes of section 307(b)(1) of the Act. Pursuant to section 307(b)(1), judicial review of this final agency action may be sought in the United States Court of Appeals for the appropriate circuit. Judicial review of this final agency action may not be obtained in subsequent proceedings, pursuant to CAA section 307(b)(2). This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.

Redacted Material not Subject to Review

**Grant of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program
For
Sinclair Casper Refining Company's
Sinclair Casper Refinery**

**Contains Information Claimed by
The Sinclair Companies
To be Confidential Business Information**

EPA received a petition from Sinclair Casper Refining Company (“SCRC” or “Sinclair”) dated February 4, 2016, for a one-year extension of the Renewable Fuel Standard (RFS) small refinery exemption for the Sinclair Casper Refinery (“SCR”) for SCR’s 2014 RFS obligations. EPA denied the petition in a decision issued May 2, 2016. SCR promptly challenged EPA’s denial in the United States Court of Appeals for the Tenth Circuit by filing a petition for review on June 10, 2016.¹ On August 15, 2017, the Court vacated the decision and remanded the matter to EPA.² Upon reconsideration, EPA has now reached a different conclusion. For the reasons described herein, EPA is granting SCRC’s request for an extension of SCR’s RFS small refinery exemption for 2014.

Redacted Material not Subject to Review



Redacted Material not Subject to Review



This decision is a final agency action for purposes of CAA section 307(b)(1). Pursuant to CAA section 307(b)(1), judicial review of this final agency action may be sought in the United States Court of Appeals for the appropriate circuit. This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.

**Denial of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program
for
Sinclair Wyoming Refining Company's
Sinclair Wyoming Refinery**

**Contains Information Claimed by
The Sinclair Companies
To be Confidential Business Information**

Office of Transportation and Air Quality

EPA received a petition from Sinclair Wyoming Refining Company (“SWRC” or “Sinclair”) dated December 14, 2015, for a one-year extension of the RFS small refinery exemption for the Sinclair Wyoming Refinery (“SWR”) for SWR’s 2014 RFS obligations. For the reasons described herein, EPA is denying Sinclair’s request for an extension of SWR’s RFS small refinery exemption for 2014.

Redacted Material not Subject to Review



Redacted Material not Subject to Review

V. Conclusion

Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption based on a demonstration by the small refinery of a "disproportionate economic hardship" from compliance with its RFS requirements. Based on our analysis of all of the available information about SWR, and our consultation with DOE, EPA has concluded that SWR will not experience "disproportionate economic hardship" in complying with its 2014 RFS requirements. Therefore, EPA is hereby denying SWRC's request for a temporary extension of SWR's small refinery RFS hardship exemption for 2014.

This decision is a final agency action for purposes of section 307(b)(1) of the Act. Pursuant to section 307(b)(1), judicial review of this final agency action may be sought in the United States Court of Appeals for the appropriate circuit. Judicial review of this final agency action may not be obtained in subsequent proceedings, pursuant to CAA section 307(b)(2). This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking

**Grant of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program
For
Sinclair Wyoming Refining Company's
Sinclair Wyoming Refinery**

**Contains Information Claimed by
The Sinclair Companies
To be Confidential Business Information**

Office of Transportation and Air Quality

EPA received a petition from Sinclair Wyoming Refining Company (“SWRC” or “Sinclair”) dated December 14, 2015, for a one-year extension of the Renewable Fuel Standard (RFS) small refinery exemption for the Sinclair Wyoming Refinery (“SWR”) for SWR’s 2014 RFS obligations. EPA denied the petition in a decision issued May 2, 2016. SWR promptly challenged EPA’s denial in the United States Court of Appeals for the Tenth Circuit by filing a petition for review on June 10, 2016.¹ On August 15, 2017, the Court vacated the decision and remanded the matter to EPA.² Upon reconsideration, EPA has now reached a different conclusion. For the reasons described herein, EPA is granting SWRC’s request for an extension of SWR’s RFS small refinery exemption for 2014.

Redacted Material not Subject to Review

Redacted Material not Subject to Review



This decision is a final agency action for purposes of CAA section 307(b)(1). Pursuant to CAA section 307(b)(1), judicial review of this final agency action may be sought in the United States Court of Appeals for the appropriate circuit. This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.


**Denial of Request for Extension of
Small Refinery Temporary Exemption
Under the Renewable Fuel Standards Program
For
Wyoming Refining Company's
Newcastle, WY Refinery**

**Contains Information Claimed by
Wyoming Refining Company
To be Confidential Business Information**

Office of Transportation and Air Quality

EPA received a petition from Hermes Consolidated, LLC (dba Wyoming Refining Company) ("WRC") dated April 1, 2016, for a two-year extension of the RFS small refinery exemption for WRC's Newcastle, WY Refinery (the "Newcastle Refinery"). For the reasons described herein, EPA is denying WRC's request for an extension of the RFS small refinery exemption for the Newcastle Refinery for 2014. EPA will consider WRC's request for 2015 in a separate decision document.

Redacted Material not Subject to Review



Redacted Material not Subject to Review

V. Conclusion

Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption based on a demonstration by the small refinery of a "disproportionate economic hardship" from compliance with its RFS requirements. Based on our analysis of all of the available information about WRC, and our consultation with DOE, EPA has concluded that WRC will not experience "disproportionate economic hardship" in complying with its 2014 RFS requirements.

Redacted Material not Subject to Review

Therefore, EPA is hereby denying WRC's request for a temporary extension of WRC's small refinery RFS hardship exemption for 2014.

This decision is a final agency action for purposes of section 307(b)(1) of the Act. Pursuant to section 307(b)(1), judicial review of this final agency action may be sought in the United States Court of Appeals for the appropriate circuit. Judicial review of this final agency action may not be obtained in subsequent proceedings, pursuant to CAA section 307(b)(2). This action is not a rulemaking and is not subject to the various statutory and other provisions applicable to a rulemaking.